

01 DEPARTMENT OF AGRICULTURE, FOOD & RURAL RESOURCES

001 DIVISION OF QUALITY ASSURANCE AND REGULATIONS

Chapter 136: OFFICIAL STATE OF MAINE GRADES AND STANDARDS FOR MILK AND MILK PRODUCTS FOR USE WITH THE STATE OF MAINE QUALITY TRADEMARK

I. DEFINITIONS

For the purpose of this Chapter, and unless the context otherwise indicates, the following words shall have the following meanings:

- A. "Applicant" means a person who owns or operates a milk plant, who has applied for an initial license to use the State of Maine Quality Trademark for milk or milk products and a licensed user seeking to renew a license.
- B. "Commissioner" means the Commissioner of the Maine Department of Agriculture, Food and Rural Resources.
- C. "Department" means the Maine Department of Agriculture, Food and Rural Resources, Division of Quality Assurance and Regulations.
- ~~D.~~ "Fresh Milk" means milk offered for sale to the public that complies with 21 CFR 101.95, except that Ultra Pasteurized or Ultra High Temperature pasteurized milk may not be considered "fresh".
- ~~ED.~~ "Licensed User" means an owner or operator of a milk plant who has applied for and been issued a license granting permission to use the official Quality Trademark on packages or advertisement in compliance with Chapter 135, Official Use of the State of Maine Quality Trademark.
- ~~FE.~~ "Milk" means milk and milk products as defined in 7 M.R.S.A. §2901.
- ~~GF.~~ "Milk Plant" means any place, premises or establishment where milk or milk products are collected, handled, processed, stored, pasteurized, aseptically processed, bottled or otherwise prepared for distribution.
- ~~HG.~~ "Milk Producer" means the owner or operator of a dairy farm where milk is sold in bulk form to a milk plant.
- ~~IH.~~ "Produced within the State" means 80% of the milk in any package must have actually been produced within the state. For any given package, the percentage of milk produced within the state will be deemed to be that percentage of the licensed user's milk used for processing which was actually produced within Maine during the calendar month, according to the Maine Milk Commission.

- J.** "Recombinant bovine somatotropin" or rBST means the synthetic version of the naturally-occurring hormone, bovine somatotropin or rBST, produced through recombinant DNA technology.
- K.** "State of Maine Quality Trademark" means the official quality trademark consisting of a silhouette of the State of Maine divided into three horizontal sections, as further described in Department of Agriculture, Food and Rural Resources Rules, Official Use of the State of Maine Trademark, Chapter 135.

II. OFFICIAL STANDARDS

The Grade "A" pasteurized Milk Ordinance, the current 1993 revision, as promulgated by the United States Department of Health and Human Services and, alternatively, the standards set forth in The Maine Milk Laws of the Maine Department of Agriculture, Title 7 MRSA §§ 2900 through 2910 and Chapter 329-Rules Governing Maine Milk and Milk Products are hereby adopted as the official standards for Maine Grade A milk.

III. LICENSING REQUIREMENT

An applicant must meet the criteria outlined below in order to obtain a State of Maine Quality Trademark license for milk or milk products:

- A. An applicant must obtain an original affidavit executed within the preceding six months from each milk producer and other milk plants from whom the applicant regularly purchases or intends to purchase milk or milk products. All affidavits must be in compliance with the requirements of Section VI of this rule.
- B. An applicant must provide the Department with an affidavit setting forth the current list of milk producers and other milk plants from whom the applicant regularly purchases or intends to purchase milk stating that the milk producers and milkplants have furnished affidavits in compliance with Section VI of this rule. An applicant who owns or operates a dairy farm where sales of milk produced on the farm are made directly to consumers shall also provide the Department with an affidavit in the form prescribed for producers by Section VI of this rule. The affidavit of an applicant shall also contain a statement that the applicant believes that the milk the applicant has or will purchase or produce is from cows not treated with rBST.
- C. An applicant who has previously held a license under these rules or is a licensed user who is applying for a renewal of an existing license must have substantially complied with the requirements of this rule while exercising the privileges of the license.
- D. An applicant must obtain written consent from each milk producer from whom the applicant regularly purchases or intends to purchase milk or milk products allowing the Department to draw blood from the milking herd, examine milk production records, inspect medicine storage places, and review such business records as are reasonably necessary to verify compliance with this rule.

- E. An applicant must provide the Department with an affidavit attesting to the fact that all milk offered for sale to the public in containers bearing the “State of Maine Trademark” consists entirely of “fresh milk”.

IV. RESPONSIBILITIES OF LICENSED USERS

- A. Licensed users must obtain new affidavits from milk producers and milk plants from whom milk is purchased on an annual basis.
- B. Licensed users shall file supplemental affidavits with the Department showing the addition of any milk producers or milk plants not mentioned in the affidavit furnished under Section III subsection B, and shall obtain the applicable affidavits and consents under Section VI as soon as practicable following the formation of any contract or arrangement for milk purchases with any new milk producer or milkplant.
- C. All affidavits required under this rule to be obtained from milk producers and milkplants must be in compliance with Section VI and be maintained on file and made available for inspection by the Department at all reasonable times.
- D. A licensed user must obtain written consent from each milk producer from whom the licensed user purchases or intends to purchase milk, or milk products allowing the Department to draw blood from the milking herd, examine milk production records, inspect medicine storage places, and review such business records as are reasonably necessary to verify compliance with this rule. Licensed users must retain and make the written consents available to the Department at all reasonable times.
- E. In displaying or advertising the State of Maine Quality Trademark and making any statements, claims or explanations with regard to the absence of rBST, licensed users must follow any and all labeling regulations or other enforceable guidelines as prescribed from time to time by the United States Food and Drug Administration. Failure to do this may be considered a violation of 7 MRSA §2901-B and may result in sanctions and suspension or revocation of said license.
- F. Licensed users must demonstrate compliance at all times with all applicable federal or state laws and regulations and milk must meet the standards established by Section II of this rule for Maine Grade A milk.
- G. Licensed users may affix the trademark only to packages containing milk produced within the state.

V. INSPECTION

The commissioner, or a duly authorized agent of the commissioner, may perform inspections as authorized by the written consents which must be obtained under these rules.

VI. AFFIDAVIT FORMAT

Licensed users shall file affidavits required in Sections III and IV of this rule on forms as prescribed and furnished by the Commissioner.

- A. In the case of affidavits supplied by milk producers to licensed users, the affidavits shall contain, at a minimum, the full name and address of the milk producer and a sworn statement stating that the milk producer has not used, recombinant bovine somatotropin (rBST) in the previous 60 days, does not possess, and does not intend to use (rBST) during the upcoming year. The affidavit of a milk producer shall also contain the consent required by Section IV, subsection B., and a statement acknowledging a producer's obligations under Title 7 M.R.S.A. §2901-B, sub-§1 which requires that:
1. A milk producer in this State who sells milk to a milk plant who uses the trademark must notify that milk plant before using rBST within the milking herd of the producer's dairy farm;
 2. Notification to the dealer must be made at least 45 days before using rBST; and
 3. Notification must be made by certified mail and sent to the milk plant's employee responsible for milk procurement at the plant location where the milk is processed.
- B. In the case of affidavits supplied by owners or operators of milk plants to licensed users, the affidavits shall contain, at a minimum, the full name and address of the milk plant and a sworn statement stating that the milk plant possesses, and will make available to the Department, affidavits and consents in compliance with Section VI of this rule from all producers whose milk or milk products is supplied by the milk plant to the licensed user.

VII. NOTIFICATION OF NONCONFORMANCE

The Maine Department of Agriculture, Division of Quality Assurance and Regulations shall be furnished with copies of noncompliance notifications to any milk producer, milk supplier, or milk plant as determined by inspections performed by the Division of Animal Health and Industry.

VIII. SUSPENSION OF LICENSE

The Commissioner may act, in accordance with the Maine Administrative Procedure Act, to suspend or revoke licenses issued under this rule for violation of any of the terms and conditions of this rule. The failure to comply with the requirements of this rule shall be sufficient cause for the suspension or revocation of the license.

IX. RETENTION OF RECORDS

Records and affidavits required to be maintained by licensed users may be discarded after three years.

X. STATUTORY AUTHORITY

7 M.R.S.A. §§ 443, 443-B, 2901-B, 2909

XI. EFFECTIVE DATE

(APA Office Note: see rule history below.)

EFFECTIVE DATE:

September 3, 1994

EFFECTIVE DATE (ELECTRONIC CONVERSION):

May 4, 1996

AMENDED:

January 23, 2001

CONVERTED TO MS WORD:

May 13, 2008